

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

ZHIJUN XIA,

Defendant.

4:20-CR-3062

ORDER

This matter is before the Court on the defendant's motion for copies ([filing 112](#)). The defendant requests "a copy of all court records related to my case, to include transcripts of the proceedings, any filings, the court docket, etc." [Filing 112](#). The motion will be granted in part, and the defendant will be provided with the docket sheet, but otherwise the motion will be denied.

To begin with, because the defendant did not appeal, no transcript was prepared of his sentencing. An indigent defendant bringing a postconviction proceeding under [28 U.S.C. § 2255](#) may have a transcript prepared at the government's expense, if the suit is not frivolous and the transcript is needed to decide the issue presented by the suit. [28 U.S.C. § 753](#). But any request for a free transcript prior to the filing of a [§ 2255](#) motion is premature. *Chapman v. United States*, [55 F.3d 390, 390-91 \(8th Cir. 1995\)](#).

The other filings the defendant has requested may or may not be part of the Court's record. But the defendant does not have the right to receive copies of documents without payment, even if he is indigent. *See*, [28 U.S.C. § 1915](#); *Lewis v. Precision Optics, Inc.*, [612 F.2d 1074, 1075 \(8th Cir. 1980\)](#). And the defendant has not explained why he needs the documents other than referring generally to a "post-conviction Habeas Corpus petition." *See* [filing 112](#). In addition, the defendant has not identified with any particularity *which* documents he wants. And the Court cannot choose for him.

The Court will, therefore, provide the defendant with a copy of the docket sheet. The defendant may then ask for copies of the particular filings he wants, the Clerk's Office will tell him how many pages those filings contain, and he may pay for the copies at the established rate of 50¢ per page.

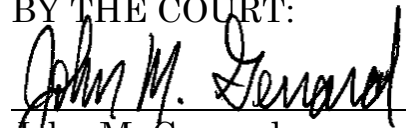
The defendant may, if he files a § 2255 motion, move for a sentencing transcript to be prepared pursuant to § 753, and the Court will at that time consider whether or not his motion is frivolous and whether the transcript is necessary. Alternatively, the defendant can pay for a transcript to be prepared. The Court will direct the Clerk's Office to provide the defendant with a copy of a request for transcript form, which the defendant may complete and return. The defendant's sentencing hearing was recorded by a court reporter, so if the defendant returns the request for transcript form, the court reporter will contact the defendant to arrange for payment of the fee.

IT IS ORDERED:

1. The defendant's motion for copies ([filing 112](#)) is granted in part and denied in part.
2. The Clerk of the Court is directed to provide the defendant with a copy of this order, a request for transcript form, and a copy of his docket sheet.

Dated this 26th day of May, 2022.

BY THE COURT:

  
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John M. Gerrard  
United States District Judge